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Attorneys for Creditor
AmTrust North America, Inc. on behalf of
Technology Insurance Company, Inc.

Hearing Date and Time:
May 24, 2022 at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
MANHATTAN DIVISION

Chapter 11

Case Number: 22-10328-mew

In re:
BUYK CORP.

JUDGE:
Honorable Michael E. Wiles

**NOTICE OF MOTION TO COMPEL DEBTOR TO ASSUME OR REJECT
EXECUTORY CONTRACT AND UNEXPIRED LEASES PURSUANT TO 11 U.S.C. 365**

**AMTRUST NORTH AMERICA, INC. ON BEHALF OF TECHNOLOGY
INSURANCE COMPANY, INC. HAS FILED A MOTION TO COMPEL DEBTOR
TO ASSUME OR REJECT EXECUTORY CONTRACT AND UNEXPIRED LEASES
PURSUANT TO 11 U.S.C. 365.**

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult an attorney.)

If you do not want the court to enter the proposed order, or if you want the court to consider your views on the motion, then on or before **May 17, 2022** you or your attorney must:

File with the court a written response, explaining your position at:

U.S. Bankruptcy Court, Southern District of N.Y.
U.S. Courthouse
One Bowling Green
New York, NY 10004

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date state above.

You must also mail a copy to:

Thomas R. Dominczyk, Esq.
Maurice Wutscher, LLP
5 Walter E. Foran Blvd., Suite 2007
Flemington, NJ 08822

Attend the hearing scheduled to be held on **May 24, 2022 at 10:00 a.m.** at the U.S. Bankruptcy Court, Southern District of N.Y., U.S. Courthouse, One Bowling Green, New York, NY 10004

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting the relief.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

MAURICE WUTSCHER, LLP
Attorneys for the Creditor
AmTrust North America, Inc. on behalf of
Technology Insurance Company, Inc.

By: /s/ Thomas R. Dominczyk
Thomas R. Dominczyk
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DATED: April 22, 2022

Cc: All parties of record

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Case Number: 22-10328-mew

In re:
BUYK CORP.

JUDGE:
Honorable Michael E. Wiles

**AMTRUST NORTH AMERICA, INC. ON BEHALF OF TECHNOLOGY INSURANCE
COMPANY, INC. MOTION TO ASSUME OR REJECT EXECUTORY CONTRACT
AND UNEXPIRED LEASES**

Now comes AmTrust North America, Inc, on behalf of Technology Insurance Company, Inc., by and through its counsel Maurice Wutscher LLP, hereby moves this Court for an entry of an order requiring the Debtor-in-Possession to immediately Assume or Reject executory and unexpired Leases that it has in place with Amtrust North America, Inc., on behalf of Technology Insurance Company, Inc., and 365 of Title 11 of the United States Code and Rule 6006 of the Federal Rules of Bankruptcy Procedure. Support for this Motion is set forth in the following Memorandum.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157 and 1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper in this District pursuant to 28 U.S.C. §§1408 and 1409.

3. Relief is requested herein under Bankruptcy Code § 365 and Bankruptcy Rule 6006.

FACTS

4. On March 17, 2022 the Debtor-in-Possession, BUYK Corp. (“Buyk”) filed its Chapter 11 Proceeding.

5. No Creditors Committee has been formed as the date of the filing of this Motion.

6. On January 14 2022, Buyk entered into a certain Workers Compensation and Employer Liability Insurance Policy with AmTrust North America, Inc. on behalf of Technology Insurance Company, Inc. (“AmTrust”). A copy of the policy is attached hereto as Exhibit “A” and incorporated herein by reference

7. The total cost of the policy, which was to run through June 23, 2022 was \$592,163.00.

8. Pursuant to the terms of the policy, Buyk was to make 3 installment payments of commencing February 10, 2022 .

9. Buyk has failed to make payments under the terms of the policy by not paying the first installment. The payment history reflects. A copy of the policy history is attached hereto as Exhibit “B” and incorporated herein for your reference.

ARGUMENT

10. 11 U.S.C. § 365 provides in part that a lease may not be assumed if there has been a default unless there is a cure or adequate assurances that there will be a prompt cure under the lease and that there are adequate assurances of further performance.

11. AmTrust is not being adequately protected due to the missed/short payments under the terms of the policy.

12. Buyk's failure to make post-petition payments does not provide adequate assurance of further performance under the lease.

13. That since Buyk has no employees, there is no need for the policy to be in place.

14. AmTrust respectfully request that this Court enter an order, pursuant to Bankruptcy Code § 365 and Bankruptcy Rule 6006, requiring Buyk to immediately Assume or Reject the executory contract identified in Exhibit A.

15. AmTrust respectfully request that should the executory contract be assumed and that Buyk be required to immediately cure any outstanding arrearages on the obligation.

16. AmTrust requests that should Buyk reject the executory, that it be entitled to immediately cancel the policy.

17. AmTrust further request that should the executory contract be rejected, that Buyk comply with any final premium audit request and that AmTrust is given 30 days after the completion of any final premium audit to file a proof of claim for any amounts due based on the rejection of the executory contract.

WHEREFORE, AmTrust North America, Inc. on behalf of Technology Insurance Company, Inc., respectfully requests this court to issue an order requiring the Debtor-in-Possession to immediately assume or reject the executory with AmTrust, Buyk comply with any final premium audit request and that AmTrust is given 30 days after the completion of any final premium audit to file a proof of claim for any amounts due based on the rejection of the executory contract and/or for such other further relief that this Court determines the Movant is entitled to.

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